



MARYLAND

Department of Health

Larry Hogan, Governor • Boyd Rutherford, Lt. Governor • Robert R. Neall, Secretary

MARYLAND BOARD OF PHARMACY

4201 Patterson Avenue, Baltimore, Maryland 21215-2299

Kevin M. Morgan, Board President • Deena Speights-Napata, Executive Director

VIA REGULAR & CERTIFIED MAIL RETURN RECEIPT REQUESTED
ARTICLE #7014 2870 0000 4731 7830

December 3, 2018

Kmart Pharmacy #7673
200 Kent Landing
Stevensville, MD 21666
Attn: Olanrewaju Labiran, R.Ph.

Re: Permit No. P01867
Case No. 19-042
Notice of Deficiencies, Recommended Civil Monetary Penalty, and
Opportunity for Hearing

Dear Pharmacist Labiran:

On June 29, 2018, the Maryland Board of Pharmacy (the "Board") conducted an annual inspection of Kmart Pharmacy #7673 (the "Pharmacy") for compliance with statutes and regulations governing the operation of a pharmacy. The Board's inspection indicated that the Pharmacy was not compliant with laws relating to pharmacist intern registration. Specifically, the Board inspector observed a pharmacist intern (E.O.) performing delegated pharmacy acts in the prescription area. Subsequent information provided indicates that the intern was hired as an intern but enrolled in a Board-approved technician training program on December 12, 2017. The Board's records indicate that the pharmacist intern has submitted an application as a pharmacist intern but it is still pending.

I. FINDINGS AND CONCLUSION

The Board finds that the Pharmacy permitted a pharmacist technician trainee (E.O.) to perform delegated pharmacy acts beyond the six-month training registration exception period, and/or permitting a pharmacist intern to practice without a pharmacist intern registration issued by the Board.

Based upon deficiencies at your Pharmacy, the Board finds that the Pharmacy is in violation of the Maryland Pharmacy Act and the regulations adopted thereunder. Specifically, the Board finds the Pharmacy in violation of Health Occ. Art. §§ 12-403(c)(1), 12-6B-01 and 12-6D-02.

II. RECOMMENDED CIVIL MONETARY PENALTY

Under Maryland Health Occupations Article § 12-410 and COMAR 10.34.11, the Board of Pharmacy has the authority to impose a civil monetary penalty based upon violations of the Maryland Pharmacy Act.

Based upon the deficiencies cited at the Pharmacy, the Board hereby recommends the imposition of a **civil monetary penalty of \$1,000.00**. The deficiencies upon which the civil monetary penalty is based are set forth above in this Notice.

In determining the recommended civil monetary penalty, the Board took into consideration the aggregating and mitigating factors outlined in COMAR 10.34.11.08.

III. FOLLOW-UP INSPECTION

Please be advised that the Board of Pharmacy may perform a follow-up inspection of the Pharmacy to ensure that the deficiencies noted herein have been addressed and corrected. Should the follow-up inspection indicate that the Pharmacy has further deficiencies, the Board may pursue further disciplinary action against the Pharmacy that may result in the imposition of sanctions such as suspension, revocation or additional monetary penalties.

IV. OPPORTUNITY FOR HEARING

If the Pharmacy disputes the findings, conclusions or the civil monetary penalty, the Pharmacy may request an evidentiary hearing on the Board's decision in this matter. In the event that the Pharmacy requests an evidentiary hearing, the Board shall initiate formal proceedings which will include the opportunity for a full evidentiary hearing. The hearing will be held in accordance with the Administrative Procedure Act, Md. Code Ann. State Gov't § 10-201 et seq., and COMAR 10.34.01. Any request for a hearing must be submitted in writing to Thomas Evans, Compliance Manager, Maryland Board of Pharmacy, 4201 Patterson Ave., 5th Floor, Baltimore, Maryland 21215, **no later than thirty (30) days of the date of this Notice**.

Please be advised that at the hearing the Pharmacy would have the following rights: to be represented by counsel, to subpoena witnesses, to call witnesses on its own behalf, to present evidence, to cross-examine witnesses, to testify, and to present summation and argument. Should the Board find the Pharmacy guilty of the violations cited in the Reports, the Board may suspend or revoke the pharmacy permit, or impose civil penalties, or both. If the Pharmacy requests a hearing but fails to appear, the Board may nevertheless hear and determine the matter in its absence.

V. OPTION TO PAY RECOMMENDED CIVIL MONETARY PENALTY

Alternatively, the Pharmacy may pay the recommended civil monetary penalty **within thirty (30) days** of the date of this Notice, in the form of a certified check or money order made payable to the Maryland Board of Pharmacy.

Please send the check or money order to:

Wells Fargo Bank
Attn: State of Md. - Board of Pharmacy
Lockbox 2051
7175 Columbia Gateway Drive
Columbia, MD 21046

NOTE: Please include the case number, 19-042, on your check or money order to insure proper assignment to your case.

Upon the Pharmacy's payment of the civil monetary penalty, this Notice will constitute the Board's final action with respect to the inspection report of June 29, 2018, and shall be a public document and order in accordance with the Maryland Public Information Act, Md. Code. Ann., General Provisions Art. § 4-101 et seq.

If you have any questions concerning the instructions contained in this letter, please contact Thomas Evans, Compliance Manager, at 410-764-2485.

Sincerely,



Deena Speights-Napata
Executive Director

cc: Linda Bethman, Board Counsel